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16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE DISTRICT OF ARIZONA**

18 Clarence Wayne Dixon,
19 Petitioner,
20 vs.

No. CV-14-258-PHX-DJH

DEATH-PENALTY CASE

21 David Shinn, et al.,
22 Respondents.

23 **PETITION FOR WRIT OF HABEAS CORPUS**

24 **28 U.S.C. § 2254**
25
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1 **I. Introduction**

2 Petitioner Clarence Wayne Dixon, now incarcerated on death row at the
3 Arizona State Prison Complex, in Florence, Arizona is scheduled to be executed at
4 10 a.m. on May 11, 2022. Dixon respectfully petitions this Court for habeas corpus
5 relief from the unconstitutional warrant of execution to which he is subjected by the
6 State of Arizona because he is incompetent to be executed under the Eighth
7 Amendment to the U.S. Constitution. *Ford v. Wainwright*, 477 U.S. 399, 417–18
8 (1986); *Panetti v. Quarterman*, 551 U.S. 930, 934–35 (2007). Dixon properly
9 makes application to this Court for issuance of a writ of habeas corpus pursuant to
10 28 U.S.C. § 2254. *See Panetti*, 551 U.S. at 947 (“The statutory bar on ‘second or
11 successive’ applications does not apply to a *Ford* claim brought in an application
12 filed when the claim is first ripe. Petitioner’s habeas application was properly filed,
13 and the District Court had jurisdiction to adjudicate his claim.”).

14 Dixon is a 66-year-old legally blind man of Native American ancestry who
15 has long suffered from a psychotic disorder—paranoid schizophrenia. Previously,
16 an Arizona court determined that he was mentally incompetent and legally insane.
17 An Arizona Department of Corrections psychologist found that Dixon “operates on
18 an intuitive feeling level, with much less regard for rationality and hard facts,” and
19 that he is a “severely confused and disturbed prisoner.” (Hearing Ex. 5 at 1–2.)¹

20
21 ¹ Dixon has filed concurrently with this Petition for Writ of Habeas Corpus a
22 Motion for Stay of Execution (ECF No. 87) and a Notice of Filing the State Court
23 Record from the proceedings on his claim that he is mentally incompetent to be
24 executed under the Eighth Amendment (ECF No. 88.) Citations to the morning and
25 afternoon transcripts of the Pinal County Superior Court hearing that occurred on
26 May 3, 2022 are designated “Tr. 05/03/2022 a.m./p.m.” followed by the page
27 number. Citations to the exhibits admitted into evidence at the hearing are
28 designated “Hearing Ex.” followed by the exhibit number. Due to the multitude of
errors in the transcription of the hearing’s afternoon session, Dixon is also including
with the state court record the official audio recording of the hearing released by
the Pinal County Superior Court. *See Order, In re State of Arizona v. Clarence
Wayne Dixon*, No. S1100CR200200692 (Pinal Cnty. Super. Ct., May 6, 2022)
(granting release of the audio recording of the competency hearing that occurred on
May 3, 2022). Finally, items from the record on appeal from the proceedings in the

1 For almost thirty years, Dixon has been unable to overcome his psychotically
 2 driven belief that all levels of the state and federal judiciary, including members of
 3 the Arizona Supreme Court, have conspired to deny him relief on a claim that the
 4 Northern Arizona University (“NAU”) police department lacked authority to
 5 investigate, arrest him, and collect his DNA in an unrelated 1985 criminal case.²
 6 Since 1991, Dixon has prepared an unending stream of pro se filings on this issue,
 7 fired his lawyers in the capital murder case so that he could continue to pursue this
 8 issue, and more recently has filed judicial complaints seeking disbarment of the
 9 Arizona Supreme Court Justices based on his belief that they are involved in an
 10 “extrajudicial killing, an illegal and immoral homicide created in the name [of] and
 11 for the people of Arizona.” (Tr. 05/03/2022 a.m. at 86; *see also* Hearing Exs. 25–
 12 29, 32.)

13 Dixon first raised the NAU issue in a pro se petition for postconviction relief
 14 in July 1991, well before he was indicted for the 1978 murder, and has since filed
 15 judicial misconduct complaints seeking the disbarment of the entire Arizona
 16 Supreme Court. Dixon delusionally believes that he will be executed not because
 17 of the 1978 murder for which he was convicted, but rather because all levels of the
 18 judiciary have conspired to protect the State of Arizona University System, the State
 19 police departments, and the State government from a “politically disastrous, [] dark
 20 embarrassment that for many years a law enforcement entity has operated without
 21 statutory authority.” (Hearing Ex. 12; *see also* Tr. 05/03/2022 a.m. at 69; *see also*
 22 Hearing Exs. 25–29.)

23 In *Ford v. Wainwright*, the United States Supreme Court held that “the Eighth
 24 Amendment prohibits a State from carrying out a sentence of death upon a prisoner
 25 who is insane.” 477 U.S. 399, 409–10 (1986). In so holding the Supreme Court

26 _____
 27 Pinal County Superior Court are designated “Pinal ROA” followed by the
 document’s date, title, and page number.

28 ² Dixon was never arrested by the NAU police, and his DNA was collected
 by the Arizona Department of Corrections.

1 reasoned that it “is no less abhorrent today than it has been for centuries to exact in
2 penance the life of one whose mental illness prevents him from comprehending the
3 reasons for the penalty or its implications.” *Id.* at 417.

4 The Court clarified *Ford*’s substantive incompetency standard in *Panetti v.*
5 *Quarterman* where it rejected “a strict test for competency [to be executed] that
6 treats delusional beliefs as irrelevant once the prisoner is aware the State has
7 identified the link between his crime and the punishment to be inflicted.” 551 U.S.
8 930, 960 (2007). Repudiating a competency standard that focuses on a prisoner’s
9 mere “awareness of the State’s rationale for an execution,” *id.* at 959, the Court held
10 that a prisoner must also have a rational understanding of the State’s reason for his
11 execution—that is, he must be able to “comprehend[] the *meaning and purpose* of
12 the punishment to which he has been sentenced,” *id.* at 960 (emphasis added).
13 Because Dixon does not have a rational understanding of why he is being executed,
14 the Eighth Amendment’s prohibition against cruel and unusual punishment bars his
15 execution and this Court’s intervention is required.

16 The Supreme Court has clearly established that a petition for writ of habeas
17 corpus raising an Eighth Amendment claim of mental incompetency to be executed
18 is unripe until an execution is imminent. *See Panetti*, 551 U.S. at 947 (“[W]e have
19 confirmed that claims of incompetency to be executed remain unripe at early stages
20 of the proceedings.”); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 645 (1998)
21 (competency claim necessarily unripe until state issued warrant of execution). At
22 issue in *Panetti* was whether the restrictions on second or successive habeas
23 petitions found in § 2244(b) of the Anti-Terrorism and Effective Death Penalty Act
24 (“AEDPA”) applied to “a § 2254 application raising a *Ford*-based incompetency
25 claim filed as soon as that claim is ripe.” 551 U.S. at 945. The Supreme Court held
26 that it does not. *Id.* at 947 (“The statutory bar on ‘second or successive’ applications
27 does not apply to a *Ford* claim brought in an application filed when the claim is
28 first ripe. Petitioner’s habeas application was properly filed, and the District Court

1 had jurisdiction to adjudicate his claim.”).

2 In *Panetti*, following the Texas courts’ scheduling of the petitioner’s
3 execution date and denial of his mental incompetency claim, he “returned to federal
4 court, where he filed another petition for writ of habeas corpus pursuant to § 2254
5 and a motion for stay of execution.” 551 U.S. at 938, 941. The United States District
6 Court for the Western District of Texas “granted petitioner’s motion[] . . . to stay
7 his execution[]” while it adjudicated the merits of Panetti’s habeas petition raising
8 the Eighth Amendment incompetency to be executed claim. *Id.* at 941. Dixon’s
9 Petition arrives to this Court in the very same procedural posture, warranting a
10 similar course of action.

11 **II. Procedural history**

12 Dixon was indicted on one count of first-degree murder of Deana Bowdoin
13 and one count of first-degree rape of Deana Bowdoin for offenses committed on
14 January 7, 1978. Indictment, *State v. Dixon*, CR2002-019595 (Maricopa Cnty.
15 Super. Ct. Nov. 26, 2002), Doc. 1. The trial court later dismissed the first-degree
16 rape count based on the running of the statute of limitations. Minute Entry, *State v.*
17 *Dixon*, CR2002-019595 (Maricopa Cnty. Super. Ct. Nov. 4, 2003), Doc. 78. At
18 trial, Dixon fired his appointed counsel and represented himself.³ Waiver of
19 Counsel, *State v. Dixon*, CR2002-019595 (Maricopa Cnty. Super. Ct. Mar. 16,
20 2006), Doc. 131. A jury found Dixon guilty of first-degree murder and sentenced
21 him death. Verdict, *State v. Dixon*, CR2002-019595 (Maricopa Cnty. Super. Ct.
22 Jan. 24, 2008), Doc. 354. The Arizona Supreme Court denied Dixon’s direct appeal,
23 *State v. Dixon*, 250 P.3d 1174 (2011), and petition for review from the trial court’s
24 dismissal of his petition for post-conviction relief. Dixon’s federal habeas petition
25 was likewise denied, Order, *State v. Dixon*, No. CR-13-0238-PC (Ariz. Feb. 11,
26 2014).

27 On April 5, 2022, the Arizona Supreme Court issued a warrant of execution

28 ³ No competency evaluation occurred at Dixon’s capital trial.

scheduling Dixon’s execution date for May 11, 2022. Warrant of Execution, *State v. Dixon*, No. CR-08-0025-AP (Ariz. Apr. 5, 2022); *see also* Ariz. R. Crim. P. 31.23(c). On April 8, 2022, Dixon filed a Motion to Determine Mental Competency to be Executed in the Pinal County Superior Court wherein he argued that expert evidence established that he “is presently unable to form a rational understanding of the State’s reason for his execution rendering him incompetent to be executed[]” under the Eighth Amendment to the U.S. Constitution. (Pinal ROA 44, Mot. to Determine Competency at 4.) That same day, the Superior Court found that Dixon demonstrated his entitlement to a hearing under A.R.S. § 13-4022, *Ford v. Wainwright*, 477 U.S. 399 (1986), and *Panetti v. Quarterman*, 551 U.S. 930 (2007), and scheduled that hearing for May 3, 2022. (Pinal ROA 43.)

The State petitioned the Arizona Supreme Court for special action relief from the Superior Court’s grant of a hearing on Dixon’s Eighth claim, Pet. for Special Action, *State v. Hon. Robert Carter Olson*, No. CV-22-0092-SA (Ariz. Apr. 13, 2022), Doc. 1, and, after the matter was fully briefed, Resp. in Opp. to Pet. for Special Action, *State v. Hon. Robert Carter Olson*, No. CV-22-0092-SA (Ariz. Apr. 18, 2022), Doc. 5; Reply in Supp. of Pet. for Special Action, *State v. Hon. Robert Carter Olson*, No. CV-22-0092-SA (Ariz. Apr. 21, 2022), Doc. 8, the Arizona Supreme Court remanded the matter to the Superior Court with instructions “to reconsider its ruling in light of the response and reply” filed by the parties, Order, *State v. Hon. Robert Carter Olson*, No. CV-22-0092-SA (Ariz. Apr. 25, 2022), Doc. 10. On April 26, 2022, the Superior Court did so and reaffirmed its grant of a hearing. (Pinal ROA 17.)

III. Relevant facts

A. The expert reports

On April 26, 2022, the parties filed the reports of their respective experts with the Superior Court. Dixon’s expert, Lauro Amezcua-Patino, M.D., answered two referral questions: first, as a result of longstanding schizophrenic illness, “[i]s

1 Clarence's mental state so distorted, or his concept of reality so impaired, that he
 2 lacks a rational understanding of the State's rationale for his execution?"; and
 3 second, "[d]oes Clarence's mental illness prevent him from rationally
 4 understanding the relationship between his crime and the punishment, or from
 5 grasping the societal values the State seeks to vindicate through his execution
 6 resulting from the severity of the crime?" (Hearing Ex. 2, Addendum Report by
 7 Lauro Amezcua-Patino, M.D. ("Addendum Report") at 2.)

8 Dr. Amezcua-Patino determined that Dixon, as someone with paranoid
 9 schizophrenia, "is disconnected from reality, especially as it relates to his legal
 10 case." (Hearing Ex. 2, Addendum Report at 3.) He explained:

11 [Clarence's] visual, auditory, and tactile hallucinations further aggravate
 12 his detachment from reality. Clarence's thought process is contaminated
 13 by concrete thinking, which is common in those diagnosed with
 14 schizophrenia. Clarence's concrete thinking causes him to fixate on an
 15 issue that limits his ability to abstractly consider the societal values the
 16 State seeks to vindicate through his execution. This results in his
 inability to form a rational understanding of the State's reasons for his
 execution.

17 Clarence holds a fixed delusional belief that his incarceration,
 18 conviction, and forthcoming execution stem from his wrongful arrest by
 19 the [Northern Arizona University] police in 1985. That belief has no
 20 basis in fact—since it was the Flagstaff Police, *not* the NAU police, that
 21 arrested him—nor is Clarence able to grasp that this belief has no basis
 22 in fact, which renders Clarence's understanding of why he'll be
 executed irrational.

23 . . .

24 Clarence's delusions are not solely focused on the factual basis of his
 25 claim, but he expresses deluded and paranoid beliefs about why the issue
 26 has been repeatedly denied by the courts. His historical writings
 27 demonstrate a longstanding delusional belief that the courts, the
 28 prosecution, and his own counsel have conspired to wrongly deny his
 NAU claims so that he can be illegally executed. This delusional belief
 is consistent with Clarence's diagnosis of schizophrenia with paranoid
 ideations. Clarence's recent writings show a significant escalation of
 these delusions, including his belief that the Arizona Supreme Court

1 justices “ghoulishly inflict a constitutional[ly] infirm, illegal and
 2 immoral homicide upon my person and body.” Clarence believes the
 3 Arizona Supreme Court justices will be disbarred and has reported each
 4 justice individually to the Commission on Judicial Conduct. Clarence
 5 believes that the prosecutors and judiciary have conspired to “ignore
 6 statutes and uphold unlawful and unconstitutional convictions.”
 7 Clarence believes the Arizona Supreme Court, United States Supreme
 8 Court, **and almost all other levels of the courts have conspired to**
 9 **deny his NAU claim so they can execute him, including to protect**
 10 **the State of Arizona and its universities from political**
 11 **embarrassment. As discussed below, these paranoid delusions**
 12 **significantly impair Clarence’s ability to rationally contemplate his**
 13 **crime, punishment, and the relationship between the two.**

14 (Hearing Ex. 2, Addendum at 3–4 (emphasis added).)

15 The report of the State’s expert, Carlos Vega, Psy.D., reflects that he
 16 answered the following referral questions: first, “[i]s Clarence Dixon’s mental state
 17 so distorted, or his concept of reality so impaired, that he lacks a rational
 18 understanding of the State’s rationale for his execution?”; and second, “[i]s
 19 Clarence Dixon, due to a mental disease or defect, presently unaware that he is to
 20 be punished for the crime of murder or unaware that the impending punishment for
 21 that crime is death.” (Hearing Ex. 31, Psychological Evaluation by Carlos Vega,
 22 Psy.D. (“Vega Report”).) Dr. Vega opined, first, that Dixon does not have paranoid
 23 schizophrenia and suffers from anti-social personality disorder rather than mental
 24 illness (Hearing Ex. 31, Vega Report at 5); and second, that Dixon is mentally
 25 competent to be executed because:

26 Clarence is so well aware of the State’s rationale for his execution that
 27 he wishes he resided in a different State, one that did not have the death
 28 penalty. He also made it clear that he does not want to die and believes
 there is nothing to be gained by his execution. He even goes as far as to
 say that if he could bring the victim back to life, he would. He made it
 clear that he was “going to fight [his execution] until the end.” He has
 deluded himself into believing that he found case law, that supports his
 position.

1 . . .

2 Furthermore, Clarence insists that he has no memory of the murder, and
3 this additionally motivates him to fight against being put to death. The
4 notion that he has no memory of the incident surrounding the death of
5 the victim appears to be true since Clarence revealed to this writer that
6 if he were to suddenly remember having killed the victim, he would have
7 a sense of relief at his execution.

8 . . .

9 [Clarence] is suffering from personality disorder, and this is responsible
10 for his deluded notion that the government has refused to agree with his
11 legal argument, not because his argument is not sound but rather the
12 government is afraid of the consequences of admitting they are wrong.
13 Clarence is so well aware of his impending punishment and reported that
14 this is responsible for his current level of depression.

15 (Hearing Ex. 31, Vega Report at 6.)

16 **B. The evidentiary hearing**

17 At the evidentiary hearing on May 3, 2022, Dixon presented the testimony of
18 Dr. Amezcua-Patino and introduced 30 exhibits in his case-in-chief. (Tr.
19 05/03/2022 a.m. at 18–88; Hearing Exs. 1–29, 32.) Dr. Amezcua-Patino testified
20 that he has been a licensed physician and, since 1988, has specialized in psychiatry.
21 (Tr. 05/03/2022 a.m. at 18.) For the last 34 years Dr. Amezcua-Patino has
22 maintained his clinical psychiatric practice and has 37 years’ worth of experience
23 diagnosing and treating people with schizophrenia. (Tr. 05/03/2022 a.m. at 18, 22–
24 23.) Dr. Amezcua-Patino testified that half of his work has been in the inpatient
25 setting, and that he has worked in “probably every single hospital in the Valley . . .
26 including Arizona State Hospital.” (Tr. 05/03/2022 a.m. at 18.) In 2012, and again
27 in 2022, Dr. Amezcua-Patino diagnosed Dixon with paranoid schizophrenia. (Tr.
28 05/03/2022 a.m. at 36–37.)

More than three decades earlier, two court-appointed psychiatrists Otto
Bendheim, M.D., and Maier Tuchler, M.D., first diagnosed Dixon with
schizophrenia following his arrest in 1977 for a bizarre assault that resulted in him

1 being found mentally incompetent to stand trial and committed to the Arizona State
2 Hospital before being adjudicated legally insane two days before the murder for
3 which he was sentenced to death. (Tr. 05/03/2022 a.m. at 41–44; Hearing Ex. 3,
4 Psychiatric Examination Report by Otto Bendheim, M.D. (“Bendheim Report”);
5 Hearing Ex. 4 Psychiatric Examination Report by Maier Tuchler, M.D. (“Tuchler
6 Report”); Hearing Ex. 9, Min. Entry Verdict, Jan. 5, 1978.)

7 Dr. Amezcua-Patino testified that Dixon clearly satisfied the diagnostic
8 criteria for a schizophrenic illness under the fifth edition of the Diagnostic and
9 Statistical Manual of Mental Disorders (“DSM-V”)—a psychotic illness which
10 derives from a thought disorder characterized by delusions, hallucinations,
11 cognitive symptoms, paranoia, and lack of emotionality. (Tr. 05/03/2022 a.m. at
12 30–32.) He testified that people with schizophrenia are often intelligent and can
13 “maintain a high level of sophistication in their thinking.” (Tr. 05/03/2022 a.m. at
14 33.) In men, “[t]he full-blown symptoms of schizophrenia usually get manifested
15 in the late teens, early 20s” which, Dr. Amezcua-Patino testified, is when Dixon
16 experienced the onset of that psychotic disorder. (Tr. 05/03/2022 a.m. at 34, 42–
17 43.)

18 Dr. Amezcua-Patino testified that Dixon, as a direct result of his
19 schizophrenic illness, experiences auditory, visual, and tactile hallucinations. (Tr.
20 05/03/2022 a.m. at 59–60.) He also experiences “paranoia, meaning he’s distrustful
21 and concerned about what other people are trying to do to him[,]” and delusional
22 grandiosity. (Tr. 05/03/2022 a.m. at 61, 69.) According to Dr. Amezcua-Patino,
23 Dixon “feels that there is a plot where the judicial system has to protect themselves
24 from his claims because his claims [related to the Northern Arizona University
25 Police] will be terribly embarrassing.” (Tr. 05/03/2022 a.m. at 61.) Dr. Amezcua-
26 Patino testified about the questioning techniques he employed with Dixon over the
27 course of several in-person evaluations designed to test the rigidity of his delusions:

28 Particularly the last two visits. What I was trying to test is if he’s

1 thinking about the rationale. You know, he's filed multiple pleadings.
 2 He has gone to multiple courts. He has been rejected by multiple courts.
 3 It was important for me to understand, especially as he was getting
 4 closer, you know, to moving from death row to death watch, if the stress
 5 related to that will make him less delusional, meaning it's time to
 perceive reality in a different way.

6 And so I had multiple – multitude of techniques in terms of empathic
 7 understanding, empathic questioning, you know, paradoxical intention,
 8 to try to get him to explain to me how it is that despite all of this evidence
 9 that has been provided in front of him about, again, the irrationality of
 10 his request, including from his attorneys, and he always gets back to the
 11 same point, which is, **“They say that they want to kill me because I
 killed someone. But I know that they want to kill me because they
 don't want to be embarrassed.”**

12 (Tr. 05/03/2022 a.m. at 62–63 (emphasis added).) Dr. Amezcua-Patino testified that
 13 Dixon's delusional belief that he is going to be killed for reasons other than murder
 14 is “unshakable” and explained that he “actually lives in a separate reality inside of
 15 his head.” (Tr. 05/03/2022 a.m. at 58–59.) “And we see glimpses of that reality
 16 when he writes[.]” (Tr. 05/03/2022 a.m. at 58–59.)

17 Dr. Amezcua-Patino next testified about the process for evaluating a person's
 18 mental competency to be executed. (Tr. 05/03/2022 a.m. at 23.) He testified that in-
 19 person evaluations allow the psychiatric examiner to “understand [] behavior in
 20 front of you” (Tr. 05/03/2022 a.m. at 24), and multiple examinations allow for the
 21 assessment of “the consistency of the symptoms over time” (Tr. 05/03/2022 a.m. at
 22 24–25). And because “the issue of competence . . . is affected by a psychiatric
 23 diagnosis[.]” Dr. Amezcua-Patino testified that it requires “a comprehensive
 24 analysis of what has happened with that individual's life.” (Tr. 05/03/2022 a.m. at
 25 23.)

26 In order to evaluate Dixon's mental competency for execution, Dr. Amezcua-
 27 Patino testified that he reviewed “about 5,100 pages of documents” that pre-dated
 28 [Dixon's] incarceration and contained “lifetime type of information.” (Tr.

1 05/03/2022 a.m. at 26.) That information reflected that “the issue of mental illness
2 and schizophrenia has been raised long before this last set of meetings with
3 [Dixon].” (Tr. 05/03/2022 a.m. at 27.)

4 Dr. Amezcua-Patino met Dixon in person “[f]our times” and “a fifth time”
5 including his visit nearly a decade ago. (Tr. 05/03/2022 a.m. at 26.) He explained
6 that repeated visits with Dixon were important because, as someone with paranoid
7 schizophrenia, “Dixon is distant” and “it was important to try to dig into his own
8 self to understand what is going on in his mind, and trying to understand some of
9 his delusional thinking to see if – how unshakeable it is.” (Tr. 05/03/2022 a.m. at
10 27–28.) Dr. Amezcua-Patino testified that multiple visits were necessary to assess
11 “consistency of symptoms” which “manifested every time I meet with him.” (Tr.
12 05/03/2022 a.m. at 27.)

13 Dr. Amezcua-Patino testified that in order for a person to be mentally
14 competent to be executed “he needs to be able to not only understand that somebody
15 wants to kill him, but he needs to understand the reasons for that[,]” including the
16 societal interests in his execution. (Tr. 05/03/2022 a.m. at 36, 64.) “And he has to
17 have enough rationality to develop that understanding.” (Tr. 05/03/2022 a.m. at 36,
18 64.) Dr. Amezcua-Patino testified that, in Dixon’s case, “in all the time that I’ve
19 spent with him, he has not been able to do that.” (Tr. 05/03/2022 a.m. at 64.) This
20 is because, Dr. Amezcua-Patino explained, when prompted to consider his
21 impending execution, Dixon “goes back to this same premise of: They’re afraid of
22 me embarrassing them” because of his claim against the NAU police. (Tr.
23 05/03/2022 a.m. at 64.) Dr. Amezcua-Patino testified that while “[t]here have been
24 some different variations over the years in terms of different wording to the same
25 thing, and going into different explanations, which is not unusual for people with
26 delusional thinking[,]” the crux of Dixon’s psychotic delusion “always go[es] back
27 to the same [psychotic delusional] premise, meaning: **They want to execute me**
28 **because they don’t want to be embarrassed.**” (Tr. 05/03/2022 a.m. at 64–65)

1 (emphasis added).)

2 Dr. Amezcua-Patino testified about Dixon's delusional thought content
3 evidenced by his writings over time, and many of which were admitted into
4 evidence at the hearing. (Tr. 05/03/2022 a.m. at 66–89.) Those writings consist of
5 numerous pro se court filings and, more recently, complaints against members of
6 this Court seeking their disbarment for allowing “the unconstitutional, infirm,
7 illegal, and immoral ghoulisn infliction of a homicide upon my person and body”
8 for their “action or inaction in considering my petition for writ of habeas corpus”
9 pertaining to the Northern Arizona University police. (Tr. 05/03/2022 a.m. at 84–
10 87.) As recently as April 16, 2022, Dixon wrote to the Commission on Judicial
11 Conduct in which he stated:

12 I find it unconscionable that these Arizona Supreme Court members
13 would lack professional integrity involving a capital case. Their lack of
14 impartiality and fairness leads directly to an extrajudicial killing, an
15 illegal and immoral homicide created in the name and for the people of
Arizona.

16 (Tr. 05/03/2022 a.m. at 86.) On April 30, 2022, Dixon again wrote to the
17 Commission stating:

18 Although my and my legal team's efforts to stop my execution may be
19 in vain, the deliberate misapplication and ignoring of Arizona statutes
20 and the law, specifically A.R.S. 15-1627, will result in an extrajudicial
21 killing that would merit disbarment of those who are unconcerned with
their unprofessional reason for being even after the 12th hour.

22 (Tr. 05/03/2022 a.m. at 88.)

23 Dr. Amezcua-Patino explained that Dixon's ability to interpret the law, cite
24 statutes, and write somewhat coherently in some areas does not mean that he is
25 mentally competent to be executed, because the underlying factual premises in his
26 so-called coherent writings are the byproduct of psychotic delusions which have no
27 basis in reality. (Tr. 05/03/2022 p.m. at 13–21.) Dixon's mental illness render's him
28 mentally incompetent under *Panetti*: he lacks a rational understanding of the State's

1 rationale for his execution because “[a]t the end of the day, . . . Dixon doesn’t
2 believe that his execution is because society wants to punish him for the murder of
3 the victim in the case he was sentenced to death for, but, rather, it’s because society
4 and the courts seek to protect themselves from the embarrassment of granting his
5 meritless claim[.]” (Tr. 05/03/2022 a.m. at 89.)

6 On cross-examination, Dr. Amezcua-Patino testified that the Office of the
7 Federal Public Defender retained him at his hourly rate of \$450 per hour. (Tr.
8 05/03/2022 p.m. at 4–5.) He also testified that he visited Dixon four times since
9 August 2021 and spent approximately “30 to 40 hours” reviewing records and
10 evaluating Dixon’s mental competency for execution. (Tr. 05/03/2022 p.m. at 5–6.)
11 Dr. Amezcua-Patino testified that in March 2022, due to the fact that he was not
12 registered with the Maricopa County Superior Court’s list of Rule 11 mental health
13 evaluators, he did not qualify as a Rule 11 expert in a different case but was
14 recognized by the court as an expert in the field of psychiatry. (Tr. 05/03/2022 p.m.
15 at 8–9.)

16 When asked by counsel for the State whether Dixon “understands that the
17 DNA profile that was entered into the law enforcement national database that was
18 collected as a result of these convictions for the 1985 sexual assault . . . was then
19 used to match him, his profile from the DNA collected from the victim Ms.
20 Bowdoin in the murder case?” Dr. Amezcua-Patino testified that Dixon “knows the
21 fact because somebody told him that.” (Tr. 05/03/2022 p.m. at 10.) He agreed that
22 Dixon “is aware that the state intends to execute him for the murder of Ms. Bowdain
23 [sic]” because he “has been told that that is the reason. That is not what he rationally
24 believes.” (Tr. 05/03/2022 p.m. at 12.)

25 The superior court questioned Dr. Amezcua-Patino next. (Tr. 05/03/2022
26 p.m. at 13–14.) The court asked Dr. Amezcua-Patino to explain how to reconcile
27 Dixon’s high intelligence and pro se writings which “seem to suggest, . . . ordered
28 thought” and “rationality,” with Dr. Amezcua-Patino’s opinion that he does not

1 rationally understand the State's reasons for his execution. (Tr. 05/03/2022 p.m. at
2 13–14.) Dr. Amezcua-Patino testified that it was important to view Dixon's writings
3 "in the context of an illness[.]" (Tr. 05/03/2022 p.m. at 15.) "[T]he fact that he
4 knows the law, and the fact that he knows facts about the law, doesn't mean that
5 these conclusions of law are rational[.]" Dr. Amezcua-Patino explained. (Tr.
6 05/03/2022 p.m. at 15.) He added further that "there are a number of factors here
7 so factual knowledge is not the same as rational understanding." (Tr. 05/03/2022
8 p.m. at 15.)

9 The superior court asked how Dixon's "bad decisions" and litigation of the
10 NAU issue "nearly 30 times in numerous state and federal courts" over the years
11 led Dr. Amezcua-Patino to "jump to the conclusion that this is delusional, irrational,
12 . . . versus a person who is facing very serious charges and perhaps rationally even
13 if it is a very low probability approach, if it might have been his best play[?]" (Tr.
14 05/03/2022 p.m. at 18.) Dr. Amezcua-Patino explained that "number one, you
15 cannot disconnect him from the fact that he suffers from Schizophrenia" and
16 "schizophrenia in itself raises a probability of delusional thinking." (Tr. 05/03/2022
17 p.m. at 19.) Additionally, "delusional means that your thoughts are irrational,
18 they're fixated and unbreakable[.]" (Tr. 05/03/2022 p.m. at 19.) He testified further
19 that "if you look at the whole package, we have an individual who suffers from
20 Schizophrenia that has had a consistent delusion for a long time and that delusion
21 can terminate his ability to be rational about what is happening to him." (Tr.
22 05/03/2022 p.m. at 20.)

23 To rebut Dixon's evidence, the State called Carlos Vega, Psy.D., and entered
24 two exhibits⁴ into evidence in rebuttal. (Tr. 05/03/2022 p.m. at 27–46.) In all, Dr.
25 Vega's direct examination consisted of just twenty pages of transcript. (Tr.
26 05/03/2022 p.m. at 27–47.) Dr. Vega testified that he received his doctorate in

27
28 ⁴ Those exhibits consisted of Dr. Vega's report (Hearing Ex. 31) and CV
(Hearing Ex. 30).

1 psychology and works primarily with the courts to conduct Rule 11 prescreens and
2 competency assessments pursuant to Rule 26.5 of Arizona's Rules of Criminal
3 Procedure. (Tr. 05/03/2022 p.m. at 27–29.) He stated that he has testified as an
4 expert in the Pinal County Superior Court in “[m]ostly in DCS cases.” (Tr.
5 05/03/2022 p.m. at 29.) Dr. Vega testified that in that context, he generally
6 interviews the subject of his evaluation “one time.” (Tr. 05/03/2022 p.m. at 30.)

7 In Dixon's case, Dr. Vega testified that he reviewed “a number of
8 evaluations, a number of court documents” and conducted a 70-minute evaluation
9 of Dixon by video. (Tr. 05/03/2022 p.m. at 32.) He testified that Dixon denied
10 receiving psychotropic medications and appeared to have “above average intellect.”
11 (Tr. 05/03/2022 p.m. at 34–35.) They talked about politics and, according to Dr.
12 Vega, Dixon's reference to President Biden as a “lukewarm leader” indicated that
13 he “is acutely aware of reality.” (Tr. 05/03/2022 p.m. at 36.)

14 Dr. Vega testified that Dixon “whine[d] and complain[ed]” about prison staff
15 taking his address book and then stated he needed to conduct a more thorough
16 search to determine whether it had been misplaced. (Tr. 05/03/2022 p.m. at 37.)
17 According to Dr. Vega, this showed that “what you see is an individual that is at
18 the time when I'm evaluating him is not the one least bit delusional.” (Tr.
19 05/03/2022 p.m. at 37.) Dr. Vega testified that Dixon said his DNA had been
20 obtained illegally, he had no memory of the murder, and, in response to a
21 hypothetical question from Dr. Vega about “what if all of a sudden you have a
22 recollection that you did kill [the victim], and he said . . . you know, if I killed her,
23 if I have memories of killing her, on my way to execution, I would feel relief.” (Tr.
24 05/03/2022 p.m. at 39–40.)

25 Dr. Vega testified that Dixon could not be delusional because “in order for
26 there to exist, a delusion, in order for there to be a delusion, you it is impossible for
27 it to happen.” (Tr. 05/03/2022 p.m. at 42.) When asked by the State, “does what
28 Dixon's specific diagnosis is, ultimately affect your opinion about whether he has

1 a rational understanding of the State’s reason for his execution?” Dr. Vega testified,
2 without hesitation, “Yeah, of course it does.” (Tr. 05/03/2022 p.m. at 43.) Dr. Vega
3 stated he diagnosed Dixon with “antisocial personality disorder[.]” (Tr. 05/03/2022
4 p.m. at 43.)

5 Dr. Vega testified that even if Dixon held the delusional belief about the
6 courts conspiring to reject his NAU claim in order to protect government actors
7 from embarrassment, he is nonetheless mentally competent to be executed based on
8 factors found insufficient in *Panetti*: because “it doesn’t affect the connection
9 between I murdered her or I don’t remember murdering her. I may have murdered
10 her. And I am being executed.” (Tr. 05/03/2022 p.m. at 44–45.) Ignoring the fact
11 that Dixon’s competency to represent himself was never evaluated pre-trial, Dr.
12 Vega testified further that Dixon’s mental competency for execution is supported
13 by the fact that he “was never found incompetent to represent himself.” (Tr.
14 05/03/2022 p.m. at 45.) According to Dr. Vega, Dixon’s writings also reflect that
15 he “is not delusional.” (Tr. 05/03/2022 p.m. at 46.)

16 On cross-examination, Dr. Vega admitted that he has never previously
17 evaluated a person’s mental competency for execution. (Tr. 05/03/2022 p.m. at 47.)
18 He also testified that he is not a medical doctor, has no patients, and has no
19 experience treating people with schizophrenia, or evaluating or monitoring their
20 symptoms over time. (Tr. 05/03/2022 p.m. at 47–48.) When asked whether he
21 researched the standards for performing a competency evaluation of his magnitude,
22 Dr. Vega responded that he “did a little bit, very little.” (Tr. 05/03/2022 p.m. at
23 101.)

24 Dr. Vega admitted that he evaluated Dixon only once and for 70 minutes by
25 video. (Tr. 05/03/2022 p.m. at 102.) He could only see the top half of Dixon’s body
26 and so had no idea whether Dixon was shackled or fidgeting throughout the
27 evaluation. (Tr. 05/03/2022 p.m. at 102–03.) Dr. Vega denied knowing “who else
28 was in the room behind the camera” during the evaluation and admitted a

1 corrections officer could have been present and he would never have known. (Tr.
2 05/03/2022 p.m. at 103.) He also admitted that in-person evaluations are preferable
3 and that he could have requested more than a single visit with Dixon. (Tr.
4 05/03/2022 p.m. at 105–06.)

5 Dr. Vega testified that he audio-recorded his interview with Dixon
6 because “I didn’t trust my memory really well[,]” and then intentionally destroyed
7 the recording. (Tr. 05/03/2022 p.m. at 49.) He testified that he recorded the
8 interview both so that he could write out exact quotes from Dixon in his report and
9 to refresh his recollection. (Tr. 05/03/2022 p.m. at 49.)

10 Dr. Vega testified that he found Dixon cognitively intact because “of motions
11 that he writes and stuff.”⁵ (Tr. 05/03/2022 p.m. at 50.) When asked how that finding
12 could be reconciled with Dixon’s prior neuropsychological test scores showing
13 “significant cognitive impairments[,]” Dr. Vega dissembled, claiming that because
14 an MRI of [Dr. Vega’s] own brain showed “significant” pathologies, validated
15 neuropsychological “test results . . . don’t say a lot to me.” (Tr. 05/03/2022 p.m. at
16 51.) He then added “and of course I am not all completely there.” (Tr. 05/03/2022
17 p.m. at 51.) Then in an about-face, Dr. Vega reported finding that Dixon showed
18 “cognitive distortions.” (Tr. 05/03/2022 p.m. at 61–62.) Dr. Vega admitted that
19 information Dixon provided about his weight, reason for weight loss, and the
20 number of days until his execution were all incorrect (Tr. 05/03/2022 p.m. at 53–
21 55) but denied that this was evidence of confusion (Tr. 05/03/2022 p.m. at 56). He
22 also admitted that impending execution “may affect [Dixon’s] memory here and
23 there.” (Tr. 05/03/2022 p.m. at 56.)

24 Defying his own non-diagnosis of a psychotic disorder, Dr. Vega testified
25 that Dixon hallucinates regularly (Tr. 05/03/2022 p.m. at 64–65) and “could very
26 well have had delusional disorder”⁶ and affirmed that he could “[a]bsolutely” be on

27 ⁵ Dr. Vega later testified that he “didn’t read” and “just barely, you know,
28 looked at” Dixon’s writings. (Tr. 05/03/2022 p.m. at 93.)

⁶ Dr. Vega testified that if Dixon does, in fact, have a diagnosis of paranoid

1 the “schizophrenic spectrum” (Tr. 05/03/2022 p.m. at 65–66, 86). After describing
2 Dixon’s hallucinations and apparent delusional disorder—a psychotic mental
3 illness in the DSM-V, Section 297.1—Dr. Vega completely switched gears,
4 denying the plain meaning of his report. He testified that while he wrote in his report
5 that “there is no doubt that [Dixon] is deluding himself legally[,]” this does not
6 mean Dixon is delusional because he used this phrase to mean that Dixon was “just
7 kidding yourself[]” or “messing with yourself.” (Tr. 05/03/2022 p.m. at 66.)

8 Dr. Vega agreed that Dixon’s “beliefs about his NAU argument and about
9 why it has been consistently denied is a fixed belief that is not amenable to change
10 in light of conflicting evidence[.]” (Tr. 05/03/2022 p.m. at 70.) This is the very
11 definition of a delusional belief incidental to a schizophrenia diagnosis in the DSM-
12 V. (Hearing Ex. 36.) Defying reason and common sense, let alone professional
13 diagnostic standards, Dr. Vega insisted the DSM-V definition of delusional
14 thinking was wrong and that his own personal standard should be applied. Objecting
15 to the DSM-V definition of “delusion,” he claimed that only bizarre delusions
16 qualify as “delusions” for a schizophrenia diagnosis and the DSM-V failed to
17 “define[] it correctly.” (Tr. 05/03/2022 p.m. at 70–77.) Eventually, Dr. Vega was
18 forced to admit that: (1) Dixon satisfied each and every one of the DSM-V criteria
19 for a diagnosis of paranoid schizophrenia; and (2) that this diagnosis squared with
20 Dixon’s longstanding documented history of that psychotic illness. Then, in total
21 disregard of recognized professional diagnostic standards, he denied that Dixon
22 suffers from that psychotic disorder. (Tr. 05/03/2022 p.m. at 77–85.) Dr. Vega
23 topped it off with an assertion that Dixon has antisocial personality disorder, and of
24 course he made this diagnosis by refusing to apply the DSM-V criteria for the
25 diagnosis. (Tr. 05/03/2022 p.m. at 87–91.)

26 _____
27 schizophrenia “it is definitely comorbid to the principle [sic] diagnosis of a
28 personality disorder.” (Tr. 05/03/2022 p.m. at 77, 91–92.) As explained below, this
is an impossibility under the DSM-V. He also said of Dixon, “he’s got that paranoid
personality thing.” (Tr. 05/03/2022 p.m. at 86.)

1 With respect to Dixon's mental competency for execution, Dr. Vega
2 conceded that Dixon "is fixated on the NAU issue" and its denial by the courts. (Tr.
3 05/03/2022 p.m. at 92.) He agreed that Dixon has paranoid thoughts. (Tr.
4 05/03/2022 p.m. at 93.) And he agreed that Dixon "has a deluded notion the
5 government has refused to agree with his legal argument, . . . because the
6 government is afraid of the consequences of admitting they are wrong, really even
7 though they believe it to be right [.]" (Tr. 05/03/2022 p.m. at 93.) He confirmed that
8 "this is [Dixon's] belief." (Tr. 05/03/2022 p.m. at 93.) Dr. Vega admitted that
9 despite relying on Dixon's writings as evidence of his rational understanding, he
10 neglected that very evidence, admitting he "didn't read" and "just barely, you know,
11 looked at" those very writings. (Tr. 05/03/2022 p.m. at 93.)

12 Dr. Vega testified that his evaluation of Dixon's competency to be executed
13 focused on assessing what transpired related to the murder and whether Dixon was
14 involved. (Tr. 05/03/2022 p.m. at 96.) He confirmed that the extent of his inquiry
15 consisted of asking Dixon whether he knew the murder victim, recalled the murder,
16 and Dixon's statements that he would not be executed if he lived in a state without
17 the death penalty, did not recall the crime and could not bring the victim back, and
18 would feel relief if he were to hypothetically regain his memory. (Tr. 05/03/2022
19 p.m. at 96–97.) Specifically, Dr. Vega assessed whether "he can connect the facts
20 that they were executing him because of the murder, yes." (Tr. 05/03/2022 p.m. at
21 97.)

22 On redirect, Dr. Vega reiterated his opinion that the fact that Dixon "wants
23 to prevent" his execution "says he absolutely understands the connection" between
24 his murder conviction and execution which renders him mentally competent for
25 execution. (Tr. 05/03/2022 p.m. at 108–09.) But that opinion is premised on criteria
26 for evaluating competency predicated on a prisoner's awareness, which defies
27 *Panetti*. 551 U.S. at 956.

28 With respect to the claim that Dixon expressed "relief" in response to Dr.

1 Vega’s hypothetical, Dr. Vega admitted that those were not Dixon’s exact words
 2 and he asked no follow up questions. (Tr. 05/03/2022 p.m. at 98–100, 109–10.) Dr.
 3 Vega also testified that he never asked Dixon the question “why do you believe that
 4 you are being executed” because “I didn’t have to. I really didn’t have to ask him
 5 what he believed. I mean it was – it was obvious.” (Tr. 05/03/2022 p.m. at 100–01.)

6 On redirect, Dr. Vega reiterated his opinion that Dixon’s desire “to prevent”
 7 his execution “says he absolutely understands the connection” between his murder
 8 conviction and execution which renders him mentally competent for execution. (Tr.
 9 05/03/2022 p.m. at 109.) As already noted, this conclusion was reached in this
 10 critical forensic context only after: (1) he indefensibly disregarded professionally
 11 recognized standards for diagnosing a schizophrenic psychotic disorder; (2) he
 12 diagnosed Dixon with ASPD, again in reckless indifference to the standardized
 13 diagnostic criteria; (3) he discounted psychometrically valid neuropsychological
 14 measures validating Dixon’s neurocognitive disabilities, with a quip that these
 15 scientific measures meant nothing to him; and (4) he based his ultimate conclusions
 16 principally on statements he attributed to Dixon and then intentionally destroyed
 17 that evidence.

18 **C. The state court’s decision and exhaustion**

19 The Pinal County Superior Court found that Dixon failed to prove either by
 20 a preponderance or by clear and convincing evidence that he is mentally
 21 incompetent to be executed under the Eighth Amendment to the U.S. Constitution.
 22 (Pinal ROA 8. Dixon received the complete transcript of the hearing on May 5,
 23 2022. On May 7, 2022, Dixon filed pursuant to A.R.S. § 13-4022(I) a petition for
 24 special action review of the superior court’s denial of his *Ford* claim in the Arizona
 25 Supreme Court. Petition for Special Action, *Dixon v. Hon. Robert Carter Olson*,
 26 No. CV-22-0117 (Ariz. May 7, 2022). On May 9, 2022, the Arizona Supreme Court
 27 declined jurisdiction over Dixon’s petition. Order, *Dixon v. Hon. Robert Carter*
 28 *Olson*, No. CV-22-0117 (Ariz. May 9, 2022). 28 U.S.C. § 2254(b)(1)(A) requires

1 Dixon to exhaust state court remedies before applying to this Court for a writ of
2 habeas corpus. He has done so.

3 **IV. Claim for relief**

4 In the claim that follows, Dixon incorporates by specific reference all facts,
5 allegations, and arguments made elsewhere in this petition. The state courts'
6 adjudication of this claim was contrary to, or involved an unreasonable application
7 of, clearly established federal law as determined by the U.S. Supreme Court, and
8 was also based on unreasonable factual determinations in light of the record. *See* 28
9 U.S.C. § 2254(d).

10 **Claim One**

11 **The Eighth Amendment to the U.S. Constitution prohibits Dixon's** 12 **execution because his mental illness prevents him from rationally** **understanding the State's reasons for his execution**

13 In *Ford v. Wainwright*, the Supreme Court held that the Eighth Amendment
14 prohibits states from executing those who are mentally incompetent. 477 U.S. 399,
15 409–10 (1986). Subsequently, in *Panetti v. Quarterman*, the Court reaffirmed the
16 basic premise of *Ford*, noting that “today, no less than before, we may seriously
17 question the retributive value of executing a person who has no comprehension of
18 why he has been singled out and stripped of his fundamental right to life.” 551 U.S.
19 930, 957 (2007) (quoting *Ford*, 477 U.S. at 409–10). *Ford* and *Panetti* recognized
20 that the retributive purpose of capital punishment is called into question where an
21 individual’s mental state is so distorted “that his awareness of the crime and
22 punishment has little or no relation to the understanding of those concepts shared
23 by the community as a whole.” *Panetti*, 551 U.S. at 959.

24 In *Panetti*, the Supreme Court articulated a two-step test under the Eighth
25 Amendment for determining whether a person is mentally incompetent to be
26 executed. That test requires asking, first, whether a prisoner suffers from a mental
27 illness; and second, whether a prisoner’s mental illness “obstructs a rational
28 understanding of the State’s reason for his execution.” 551 U.S. at 956–57. The

1 Supreme Court explained that where a “prisoner’s mental state is so distorted by
2 mental illness that his awareness of the crime and punishment has little or no
3 relation to the understanding of those concepts shared by the community as a
4 whole,” then the fundamental respect for humanity underlying the Eighth
5 Amendment bars his execution. *Id.* at 957–59.

6 Importantly, the Supreme Court in *Panetti* rejected an incompetency test
7 predicated on a prisoner’s *awareness* that he committed murder; his *awareness* that
8 he will be executed; and his *awareness* that “the reason the State has given for the
9 execution is his commission of the crimes in question.” *Id.* at 956. Such an
10 awareness standard, the Supreme Court held, is “too restrictive to afford a prisoner
11 the protections granted by the Eighth Amendment.” *Id.* at 956–58; *see also id.* at
12 959 (finding that a prisoner may be incompetent even though he “can identify the
13 stated reason for his execution,” and stating that for purposes of determining
14 competency to be executed, a prisoner’s “awareness of the crime and punishment”
15 is not merely a “prisoner’s awareness of the State’s rationale for an execution,” but
16 rather encompasses, at a minimum, “a rational understanding of it[.]”).

17 Application of the *Panetti* standard to the evidence and testimony in this case
18 clearly and convincingly establishes that Dixon is not competent to be executed.
19 First, the evidence unequivocally demonstrated, and the superior court found, that
20 Dixon suffers from a longstanding psychotic disorder—namely, paranoid
21 schizophrenia. (Pinal ROA 8 at 2.) Dr. Vega’s testimony to the contrary was
22 indefensible and bordered on making a mockery of the proceedings. He agreed the
23 diagnostic criteria for a psychotic illness are present, but idiosyncratically refused
24 to apply them in defiance of professionally recognized standards. (Tr. 05/03/2022
25 p.m. at 77–85.) He then applied an antisocial personality diagnosis that was
26 unsupported by requisite diagnostic criteria. (Tr. 05/03/2022 p.m. at 87–91.)

27 Step two in *Panetti* asks whether a prisoner’s mental illness “obstructs a
28 rational understanding of the State’s reason for his execution.” 551 U.S. at 956–57.

1 Dr. Vega is unequivocally disqualified from credibly answering this question. He
 2 engaged in a discreditable, arbitrary, and capricious diagnostic process, in defiance
 3 of professional standards, to find Dixon does not suffer from a psychotic disorder,
 4 when in fact, as the Superior Court found, Dixon does. (Pinal ROA 8 at 2.) Dr. Vega
 5 is therefore in no position to address step two, the *causation* prong in the *Panetti*
 6 analysis: whether Dixon’s serious mental illness impairs his rational understanding
 7 of the State’s reasons for his execution.⁷ Only Dr. Amezcua-Patino is able to
 8 credibly address this question. And he did.

9 Dr. Amezcua-Patino explained how Dixon’s paranoid schizophrenia and the
 10 delusions that contaminate his thought process prevent him from understanding that
 11 he is going to be executed as an expression of the State’s outrage at the murder he
 12 was convicted of carrying out, and instead lead him to believe that government
 13 actors “want to execute me because they don’t want to be embarrassed.” (Tr.
 14 05/03/2022 a.m. at 64–65.)

15 **A. The state court’s determination that Dixon is mentally competent**
 16 **to be executed was based on unreasonable factual determinations**

17 The superior court found that Dixon proved both by a preponderance and
 18 clear and convincing evidence “that [he] has a mental disorder or mental illness of
 19 schizophrenia.” (Pinal ROA 8 at 2.) However with respect to whether Dixon’s
 20 psychotic illness prevents him from rationally understanding the State’s reasons for
 21 his execution, the superior court determined that the evidence presented at the
 22 hearing was “conflicting and ambiguous.” (Pinal ROA 8 at 3.) However Dr.
 23 Amezcua-Patino is the only expert who assessed Dixon’s mental competency under
 24 the appropriate standard, and he testified unequivocally that Dixon lacks a rational
 25 understanding of the meaning and purpose of his execution. (Tr. 05/03/2022 a.m.

26
 27 ⁷ Dr. Vega also testified that his ultimate opinion about whether Dixon has a
 28 rational understanding of the State’s reasons for his execution is dependent on his
 ASPD and non-diagnosis of schizophrenia, which the Superior Court made a factual
 finding was incorrect. (Tr. 05/03/2022 p.m. at 43.)

1 at 36, 64.) Dr. Amezcua-Patino is also the only expert who asked Dixon why he
2 believes he is being executed. (*Compare* Tr. 05/03/2022 a.m. at 58–59, 62–63 (Dr.
3 Amezcua-Patino testifying about the various techniques he used to probe Dixon’s
4 beliefs about his execution), *with* Tr. 05/03/2022 p.m. at 100–01 (Dr. Vega
5 testifying that he never asked Dixon the question “why do you believe that you are
6 being executed”).)

7 The superior court relied on evidence that Dixon made “reflective
8 observations” in prior writings, has high-average intelligence, and has “shown
9 sophistication, coherent and organized thinking, and fluent language skills in
10 pleadings and motions that he drafted” in order to “reject[]” the assertion that
11 Dixon’s fixation over the NAU issue “is dispositive” of the competency question.
12 (Pinal ROA 8 at 3.) This was objectively unreasonable.

13 The superior court’s reliance on indicia of intelligence to support its finding
14 that Dixon failed to demonstrate that he is mentally incompetent to be executed is
15 refuted by the medical evidence. Intelligence does not minimize the effect of a
16 serious psychotic illness such as paranoid schizophrenia. No evidence presented at
17 the hearing shows otherwise. Dr. Amezcua-Patino testified that people with
18 schizophrenia are often intelligent and can “maintain a high level of sophistication
19 in their thinking.” (Tr. 05/03/2022 a.m. at 33.) It is *not* counterintuitive: intelligence
20 does not relieve the sufferer of paranoid schizophrenia from auditory and visual
21 hallucinations or psychotic delusions. As Dr. Amezcua-Patino explained, Dixon’s
22 intellectual abilities must not be confused for mental competency because, as
23 someone with paranoid schizophrenia, Dixon’s writings are rooted in psychotic
24 delusions which have no basis in reality. (Tr. 05/03/2022 p.m. at 13–21.) Dixon’s
25 writings thus needed to be understood “in the context of an illness[.]” (Tr.
26 05/03/2022 p.m. at 15.)

27 It must follow from the above that there is nothing in the nature of
28 “coherence” and “sophistication” in writings driven by psychotic delusions. This is

1 plainly evident from nearly all Dixon’s writings but especially two handwritten
2 letters from Dixon to the Arizona Judicial Commission in April 2022 where he
3 demands that the members of the Arizona Supreme Court be disbarred based on
4 purely conspiratorial and delusional beliefs pertaining to his impending execution.
5 (Tr. 05/03/2022 a.m. at 83–89; Tr. 05/03/2022 p.m. at 94; Hearing Exs. 25–29.)
6 There, Dixon embraced the irrational belief that—no matter what the State’s stated
7 rationale for his execution—his execution “will result in an extrajudicial killing that
8 would merit disbarment of those who are unconcerned with their unprofessional
9 reason for being even after the 12th hour.” (Tr. 05/03/2022 p.m. at 117.) The
10 evidence is clear and convincing: as a result of his paranoid schizophrenic illness,
11 Dixon “has had a consistent delusion for a long time and that delusion can terminate
12 his ability to be rational about what is happening to him.” (Tr. 05/03/2022 p.m. at
13 20.)

14 Rather than rely on the uncontroverted medical evidence, the court deemed
15 “persuasive” Dr. Vega’s claim that Dixon said he would feel “relief” if he were to
16 hypothetically regain his memory. (Pinal ROA 8 at 4.) Such evidence is neither
17 persuasive nor relevant. Dixon’s hypothetical *imaginary* beliefs are not a substitute
18 for understanding Dixon’s real-time psychotically driven belief: that state officials
19 have conspired to unlawfully execute him to avoid embarrassment. Moreover, Dr.
20 Vega’s claim is undermined by his intentional destruction of this evidence and
21 defeated by his admission that those were not Dixon’s exact words, the context was
22 omitted, and he asked no follow up questions. (Tr. 05/03/2022 p.m. at 98–100, 109–
23 10.) The superior court’s reliance on Dr. Vega’s observation that Dixon has a
24 rational understanding of the State’s reasons for his execution is also unreasonable
25 because Dr. Vega testified that Dixon’s “specific diagnosis [] ultimately affect[s]
26 his] opinion about whether he has a rational understanding of the State’s reason for
27 his execution[.]” (Tr. 05/03/2022 p.m. at 43), but the superior court found Dr. Vega’s
28 non-diagnosis of schizophrenia erroneous (Pinal ROA 8 at 2). By Dr. Vega’s own

1 admission, if his non-diagnosis of schizophrenia was erroneous, then his related
2 opinion about whether Dixon rationally understands the State's reasons for his
3 execution cannot be relied upon. (Tr. 05/03/2022 p.m. at 43.)

4 Moreover, as explained above, Dr. Vega's opinions were untethered from
5 diagnostic norms and bordered on the farcical. *See* Section III, *supra*. Dr. Vega
6 evaluated Dixon for only 70 minutes over video and openly admitted that he did
7 "very little" research into the standards for evaluating a person's mental
8 competency to be executed, based his medically unfounded opinions substantially
9 on Dixon's statements and, knowing that, intentionally destroyed the audio
10 recording of Dixon's actual statements prior to the hearing. Dr. Vega also admitted
11 that he never asked Dixon why he believes he is being executed, capriciously
12 refused to apply the DSM-V diagnostic criteria for schizophrenia, delusions, and
13 persecutory delusions, and failed to apply the DSM-V diagnostic criteria to his own
14 diagnosis of antisocial personality disorder. *See* Section III, *supra*. After destroying
15 his recorded interview, Dr. Vega testified that he does not "trust [his own] memory
16 really well," while noting he [is] not all completely there," and he explained his
17 refusal to consider neuropsychological test results showing Dixon's impaired
18 cognitive function with a reference to "significant" pathologies shown on an MRI
19 of his own brain. (Tr. 05/03/2022 p.m. at 51.) The superior court's rejection of
20 Dixon's *Ford* claim amounted to an objectively unreasonable determination of the
21 facts when it relied on Dr. Vega's unreliable observations about Dixon's mental
22 competency despite acknowledging that Dr. Vega's ASPD diagnosis was invalid.

23 The superior court's finding that Dixon's claim pertaining to the NAU police
24 was only "arguably delusional" was an unreasonable determination of the facts in
25 light of the evidence presented at the hearing. *See* Section III, *supra*. It also conflicts
26 with the court's contrary finding that Dixon suffers from a psychotic disorder, as
27 well as the uncontroverted medical evidence demonstrating otherwise. Dr.
28 Amezcua-Patino has explained that, in the context of Dixon's paranoid

1 schizophrenic thought disorder, his “unshakeable” belief that the judicial system
 2 and actors in it have all conspired to wrongly deny his NAU claim to shield
 3 government entities from embarrassment qualifies as a delusion under the
 4 diagnostic criteria and prevents him from developing the rationality of thought
 5 necessary to understand the meaning and purpose of his execution. (Tr. 05/03/2022
 6 a.m. at 27–28; Hearing Ex. 36.) This evidence was not refuted by Dr. Vega, whose
 7 contrived opinions conflict with generally accepted diagnostic criteria.⁸

8 The superior court’s conclusion, without any supporting evidence, that Dixon
 9 engages in only “arguably delusional thinking,” consequent to a mere “favored legal
 10 theory[.]” was objectively unreasonable. (Pinal ROA 8 at 3.) Once the superior court
 11 determined Dixon suffered from schizophrenia, by definition, it was required to also
 12 conclude that Dixon, in fact, experiences delusional thinking attendant to that
 13 psychotic illness. *See Panetti*, 551 U.S. at 955-56.

14 Because the superior court ignored the evidence before it and made findings
 15 expressly contradicted and unsupported by the medical and record evidence
 16 presented at the competency hearing, its rejection of Dixon’s *Ford* claim was
 17 objectively unreasonable. 28 U.S.C. § 2254(d)(2); *see Brumfield v. Cain*, 576 U.S.
 18 305, 316 (2015) (failure to consider evidence before the court results in an
 19 unreasonable determination of the facts); *Taylor v. Maddox*, 366 F.3d 992, 1000–
 20 01 (9th Cir. 2004) (“The state courts’ failure to consider [probative evidence] casts
 21 serious doubt on the state-court fact-finding process and compels the conclusion
 22 that the state-court decisions were based on an unreasonable determination of the
 23 facts.”), *overruled on other grounds by Murray v. Schriro*, 745 F.3d 984, 999–1000

24
 25 ⁸ The superior court’s finding also disregarded points on which both experts
 26 agreed: Dr. Vega conceded that Dixon’s “beliefs about his NAU argument and why
 27 it has been consistently denied is a fixed belief that is not amenable to change in
 28 light of conflicting evidence[.]” thus qualifying as a delusion under the DSM-V
 definition. (Tr. 05/03/2022 p.m. at 70.) Dr. Vega even acknowledged that Dixon
 “could very well have had delusional disorder” and “[a]bsolutely” be on the
 “schizophrenic spectrum.” (Tr. 05/03/2022 p.m. at 65–66, 86.)

1 (9th Cir. 2014).

2 **B. The state court’s determination that Dixon is mentally competent**
 3 **to be executed contravened and unreasonably applied *Ford* and**
 4 ***Panetti***

5 Although it acknowledged *Panetti*’s standard, the superior court contravened
 6 and unreasonably applied it. (Pinal ROA 8 at 2–4.) In determining that Dixon failed
 7 to prove his *Ford* claim, the court relied on statements from Dixon that reflected his
 8 awareness that the State says it “want[s] to kill me for murder[.]” (*Id.*) But that is
 9 precisely the “too restrictive” inquiry that the Supreme Court rejected in *Panetti*.
 10 551 U.S. at 956–58. Dixon’s awareness of the State’s rationale does not show he
 11 has a rational understanding of it. *Id.* at 958–59 (“The potential for a prisoner’s
 12 recognition of the severity of the offense and the objective of community
 13 vindication are called into question, . . . if a prisoner’s mental state is so distorted
 14 by mental illness that his awareness of the crime and punishment has little or no
 15 relation to the understanding of those concepts shared by the community as a
 16 whole.”).

17 The superior court also characterized Dixon’s reaction to the judiciary’s
 18 denial of his legal claims as suggesting only Dixon’s perception of judicial “bias.”
 19 (Pinal ROA 8 at 2–4.) But that Dixon believes there is judicial bias is irrelevant to
 20 the critical question of whether Dixon’s perception of bias is grounded in reality.
 21 The evidence shows it is not: the judges in Arizona are not, as Dixon believes,
 22 orchestrating his execution as part of a coverup for the NAU police’s illegal
 23 investigative, arrest, and DNA collection activities back in 1985—all in order to
 24 protect the NAU police and government entities from the embarrassment of that
 25 exposé. (Hearing Ex. 2, Addendum Report at 3–4; Tr. 05/03/2022 a.m. at 89; Tr.
 26 05/03/2022 p.m. at 44–45.)

27 The superior court found that Dixon proved by clear and convincing evidence
 28 that he has paranoid schizophrenia. (Pinal ROA 8 at 2.) However, it dismissed the
 unrefuted medical evidence of Dixon’s psychotic delusional thought process

1 resulting therefrom as only “arguably delusional” and merely reflective of Dixon’s
2 “favored legal theory.” (Pinal ROA 8 at 2–3.) Again, Dixon does have a favored
3 legal theory, but that alone begs the relevant question: whether that theory is
4 grounded in a serious mental illness which impairs Dixon’s rational understanding
5 of the reasons for his execution. *Panetti* required the Superior Court to focus on that
6 question.

7 It should have assessed Dixon’s mental competency within the framework of
8 his schizophrenic illness and the psychotic delusions to which it characteristically
9 gives rise. *Id.* at 960 (“The beginning of doubt about competence in a case like
10 petitioner’s is not a misanthropic personality or an amoral character. It is a psychotic
11 disorder.”). Applying *Panetti*’s framework here, the superior court failed to assess
12 how Dixon’s favored legal theory is inextricably linked to his delusional, psychotic-
13 driven belief that “[t]hey say that they want to kill me because I killed someone.
14 But I know that they want to kill me because they don’t want to be embarrassed”
15 that the NAU police in 1985 acted without statutory jurisdiction by arresting him in
16 an unrelated criminal case, investigating, and collecting his DNA. (Tr. 05/03/2022
17 a.m. at 62–65; *see also* Hearing Ex. 31, Vega report at 6.) Under *Panetti*, “the legal
18 inquiry concerns whether these delusions can be said to render [Dixon]
19 incompetent.” *Id.* at 956. The evidence before the superior court shows it does, and
20 the similarities between Panetti’s and Dixon’s *Ford* claims cannot be ignored.

21 Panetti suffered from mental illness “indicative of schizo-affective disorder”
22 that “result[ed] in a genuine delusion involving his understanding of the reason for
23 his execution.” *Id.* at 954. Like Dixon, Panetti believed that “the stated reason is a
24 sham.” *Id.* 954–55. Just as Panetti believed that “the State in truth wants to execute
25 him to stop him from preaching[,]” *id.*, Dixon mental illness has had parallel effects.
26 He believes that “[t]hey say they want to kill me because I killed someone. But I
27 know that they want to kill me because they don’t want to be embarrassed” by his
28 exposé—an exposé that is entirely constructed on his delusional belief—that the

1 NAU police acted without statutory jurisdiction. (Tr. 05/03/2022 a.m. at 62–63.)

2 The state’s experts in *Panetti* “resisted the conclusion that petitioner’s stated
3 beliefs were necessarily indicative of incompetency, particularly in light of his
4 perceived ability to understand certain concepts and, at times, to be clear and
5 lucid[.]” *Compare id.* at 955 (cleaned up), *with* Pinal ROA 8 at 2–4. As Dr.
6 Amezcua-Patino did at the hearing before the superior court, Panetti’s experts
7 testified that this should be reconciled as follows:

8 Well, first, you have to understand that when somebody is
9 schizophrenic, it doesn’t diminish their cognitive ability. . . . Instead,
10 you have a situation where—and why we call schizophrenia thought
11 disorder[—]the logical integration and reality connection of their
12 thoughts are disrupted, so the stimulus comes in, and instead of being
13 analyzed and processed in a rational, logical, linear sort of way, it gets
14 scrambled up and it comes out in a tangential, circumstantial, symbolic
15 . . . not really relevant kind of way. That’s the essence of somebody
16 being schizophrenic[.]

15 *Panetti*, 551 U.S. at 955.

16 Replicating the mistakes of the state’s experts in *Panetti*, the superior court
17 found that Dixon failed to demonstrate that he is mentally incompetent to be
18 executed by relying on statements from Dr. Amezcua-Patino’s interviews with
19 Dixon reflecting his awareness that the State seeks to execute him “for murder[.]”
20 as well as indicia of Dixon’s above-average intelligence and pro se writings that
21 reflected “sophistication, coheren[ce], and organized thinking, and fluent language
22 skills[.]” (Pinal ROA 8 at 4.) As already discussed *supra*, Section III(A),

23 In sum, the superior court contravened and unreasonably applied *Panetti* by
24 failing to consider as part of its competency inquiry evidence in the record before
25 it demonstrating that Dixon experiences delusions as a result of his paranoid
26 schizophrenic illness that prevent him from rationally understanding why he is
27 being executed. 28 U.S.C. § 2254(d)(1).

1 **V. Prayer for relief**

2 WHEREFORE, for all of the above stated reasons, and any other such
3 reasons as may be made upon amendment of this petition, Dixon respectfully prays
4 this Court to:

- 5 1. Stay the execution date for the duration of these habeas proceedings
6 pursuant to the accompanying Motion for Stay of Execution;
- 7 2. Issue a writ of habeas corpus granting petitioner relief from his
8 unconstitutional warrant of execution;
- 9 3. If the Court determines there is a need for further factual development,
10 grant petitioner an evidentiary hearing and discovery on the claim
11 presented in this petition;
- 12 4. Permit petitioner an opportunity to brief and argue the issues presented in
13 this petition;
- 14 5. Afford petitioner an opportunity to reply to any responsive pleading filed
15 by respondent;
- 16 6. Grant such further relief as may be appropriate and to dispose of the
17 matter as law and justice require.

18
19 Respectfully submitted this 9th day of May, 2022.

20
21 Jon M. Sands
22 Federal Public Defender
23 District of Arizona

24 Amanda C. Bass
25 Cary Sandman
26 Eric Zuckerman
Assistant Federal Public Defenders

27 s/ Amanda C. Bass
28 Counsel for Petitioner

Certificate of Service

I hereby certify that on May 9, 2022, I electronically filed the foregoing Petition for Writ of Habeas Corpus with the Clerk's Office by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Jessica Golightly
Assistant Paralegal
Capital Habeas Unit